UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,974	11/19/2001	Thomas Birkhoelzer	P01,0440	7671

26574 7590 09/15/2005

SCHIFF HARDIN, LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO, IL 60606-6473

EXAMINER	
REFAI, RAMSEY	

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/992,974	BIRKHOELZER ET AL.	
	Examiner	Art Unit	
	Ramsey Refai	2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 July 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Responsive to Amendment received July 14, 2005. Claims 1 and 21 have been amended. Claims 1-22 remain pending examination.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claim1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "said examination images" in line 5 and "said medical images" in line 11. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Parker et al (U.S. Patent No. 6,321,113).

5. As per claim 1, Parker et al teach a medical system architecture comprising:

an imaging modality for acquiring medical examination images of an examination subject **(column 1, lines 60-67, abstract, Fig. 1, 22, and column 3, lines 42-64; AED)**;

a workstation **(column 1, lines 60-67, abstract, Fig. 1, 26, and column 4, lines 8-10)** selected from the group of workstations consisting of workstations for acquiring said examination images **(column 3, lines 46-64)**, workstations for sending said examination image, and workstations for receiving said examination images **(column 3, lines 46-64 and column 1, line 61-column 2, line 8)**;

a system connected to said workstation for transmitting said examination images to at least one location remote from said workstation **(column 3, lines 46-64, column 1, line 61-column 2, line 20 and column 4, lines 10-25)**; and

a call system allocated to said workstation for transmitting messages together with data representing said medical images to a remote location **(column 3, lines 46-64 and column 1, line 61-column 2, line 20)**.

6. As per claim 2, Parker et al teach a workstation also processes data associated with said examination images **(abstract, column 1, line 60 – column 2, lines 20)**, and further comprising a memory connected to said system which stores said data and said examination images in allocated fashion **(column 3, lines 46-64 and column 4, lines 1-9)**.

7. As per claim 3, Parker et al teach a call system allows manually modifiable entries of auxiliary information to ensue automatically from object types stored in a data bank **(column 2, lines 4-9, abstract, Figures 2-9, and column 4, line 47 – column 5, line 26)**.

8. As per claim 4, Parker et al teach a call system comprises a user front end **(column 2, lines 4-9)**, a communication service **(Figure 1, 30, 32)** and a mobile communication device **(Figure 1)**.

9. As per claim 5, Parker et al teach a user front end is integrated in an application at said workstation **(column 1, line 60- column 2, line 10)**.

10. As per claim 6, Parker et al teach communication services comprises a communication server and a communication system **(column 4, lines 20-25 and column 3, 28-35)**.

11. As per claim 7, Parker et al teach a call system that allows a manually modifiable entry of a message recipient to ensue automatically in said message **(column 4, line 47 –column 5, line 15 and Figure 2-9)**.

12. As per claim 8, Parker et al teach a call system allows a manually modifiable entry of a current patient, being examined with said modality, to ensue automatically in said message **(column 4, line 47 –column 5, line 15 and Figure 2-9)**.

13. As per claim 9, Parker et al teach a manually modifiable entry of a current procedure being executed by said modality to ensue automatically in said message **(column 4, line 47 – column 5, line 15 and Figure 2-9)**.

14. As per claim 10, Parker et al teach a call system that allows entry of an arbitrary text as specific auxiliary information in said message **(column 1, line 60 – column 2, line 20 and column 4, lines 17-36)**.

15. As per claim 11, Parker et al teach a call system comprises a mobile communication device with a display **(Figure 1 and column 3, lines 35-41)**.

16. As per claim 12, Parker et al teach a call system includes a voice input unit at said workstation allowing a voice input to be transmitted to said communication device as an audio data file, and wherein said communication device comprises an audio transducer allowing emission of said voice input at said communication device **(column 3, lines 41-64)**.

17. As per claim 13, Parker et al teach a workstation has a monitor on which said examination images are displayed, and wherein said call system is connected to said workstation to cause a communication window to be overlaid on said examination images at said monitor **(column 3, lines 35-41, column 4, lines 43-67 and Figures 1-2)**.

18. As per claim 14, Parker et al teach a call system comprises a mobile communication device with a display **(Figure 1)** and an information return channel from said communication device to said workstation allowing information to be transmitted from said communication device to said workstation **(Figure 1 and column 4, lines 17-25; communication link)**.

Claim Rejections - 35 USC § 103

19. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

20. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (U.S. Patent No. 6,321,113) as applied to claim 1 above, and further in view of Choi (U.S. Patent No. 6,629,131).

21. As per claim 15, Parker et al teach fail to teach transmitting a confirmation of receipt of said message to said workstation after said message has been read.

22. However, Choi teaches a method with a function of reception confirmation after the read of the message **(abstract, Figure 3, and column 2, lines 59-column 3, line 11)**. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Parker et al and Choi because Choi's use of reception confirmation in Parker et al's system would ensure that an expert or physician has read the sent medical

information within a period of time in order to provide quick rescue of patients. If no response, rescue team can resend the vital information to other experts.

23. Claims 16-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (U.S. Patent No. 6,321,113) as applied to claim 1 above, and further in view of "Official Notice".

24. As per claim 16, Parker et al fail to teach the workstation communicates with said communication service via Corba technology.

25. However, "Official Notice" is taken that both the concept and advantages of using Corba technology is well known an expected in the art as evident in *Microsoft Computer Dictionary 5th Edition,* page 131. It would have been obvious to one of the ordinary skill in the art to use Corba technology in Parker et al's system because it would allow programs that are written in two different programming languages to communicate with each other, for example, an ECG and a workstation would be able to communicate without the need for additional software.

26. As per claim 17, Parker et al fail to teach the workstation communicates with said communication service via Instant Messaging technology.

27. However, "Official Notice" is taken that both the concept and advantages of using Instant Messaging technology is well known an expected in the art as evident in *Microsoft Computer Dictionary 5th Edition,* page 276. It would have been obvious to one of the ordinary skill in the

art at the time of the applicant's invention to use Instant Messaging in Parker et al's system because it would allow a rescue member to message a physician regarding a patient's status.

28. As per claim 18, Parker et al fail to teach the workstation communicates with said communication service via Java Enterprise Beans technology.

29. However, "Official Notice" is taken that both the concept and advantages of using Java Enterprise Beans technology is well known an expected in the art as evident in *Microsoft Computer Dictionary 5th Edition,* page 294. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to use Java Enterprise Beans technology in Parker et al's system because it would allow for a workstation that transmits medical data using a Java browser to run on any platform allowing for a rescue member to send vital medical data without complications.

30. As per claim 19, Parker et al fail to teach the user front end comprises a Java applet in a browser.

31. However, "Official Notice" is taken that both the concept and advantages of using Java applet in a browser is well known an expected in the art as evident in *Microsoft Computer Dictionary 5th Edition,* page 294. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to use Java applet in a browser in Parker et al's system because it adds multimedia capability and interactivity to any webpage, allowing medical data sent on a webpage to a physician to include interactive data such a an ECG result or voice from a patient.

32. As per claim 22, Parker et al fail to teach a beeper with a display.

33. However, "Official Notice" is taken that both the concept and advantages of using a beeper is well known an expected in the art as evident in *Microsoft Computer Dictionary 5th Edition,* page 388. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to use a beeper in Parker et al's system because it would provide a physician or remote expert mobility by notifying them of a medical emergency without the need to physically locate them, which would take crucial time during a life and death situation.

34. Claims 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (U.S. Patent No. 6,321,113) as applied to claim 1 above, and further in view of Shiigi (U.S. Patent No. 6,304,898).

35. As per claims 20, Parker et al fail to teach a WAP phone.

36. However, Shiigi teaches the use of a WAP phone **(column 1, lines 35-50, column 3, lines 45-58, and column 8, line 30)**. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Parker et al and Shiigi because Shiigi's use of a WAP phone in Parker et al's system because it would provide a physician or remote expert mobility by notifying them of a medical emergency without the need to physically locate them, which would take crucial time during a life and death situation.

37. Claims 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (U.S. Patent No. 6,321,113) in view of Layton et al (U.S. Patent No. 6,829,478).

38. As per claim 21, Parker fails to teach an SMS phone. \

39. However, Layton et al teach the use of SMS phone **(column 3, lines 34-52).** It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Parker et al and Layton et al because Layton et al's use of a SMS phone in Parker et al's system because it would provide a physician or remote expert mobility by notifying them of a medical emergency without the need to physically locate them, which would take crucial time during a life and death situation.

Response to Arguments

40. Applicant's arguments filed July 14, 2005 have been fully considered but they are not persuasive.

- The Applicant is arguing in substance that a device that generates an ECG trace is not an "imaging modality".
- In response, the Examiner respectfully disagrees and directs the Applicant to Manning et al (U.S. Patent No. 6,501,979), which defines "imaging modality" as "*any imaging modality that acquires imaging data by a process that can be distributed by body motions..*" **(column 2, lines 54-65)** and to Hutson (U.S. Patent No. 5,662,109), which states that *"multiple modalities of medical imaging, including, mammography, and other radiological procedures, ultrasound imaging, ...electrocardiography (EKG),*

echocardiography (ECG).....and other medical sensing systems." **(column 3, line 20-40).** These patents support the Examiner's position that a device that generates an ECG trace is an imaging modality and is well known in the field of medical technology. Therefore, Parker et al meets the scope of the claimed limitation.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramsey Refai
Examiner
Art Unit 2152

September 11, 2005

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100